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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,246	09/21/2001	Vivian Pecus	4940/IJ	4339

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DAVID LOEWENSTEIN  
802 KING ST.  
RYE BROOK, NY 10573

EXAMINER

MEHRA, INDER P

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/960,246

Applicant(s)

PECUS ET AL.

Examiner

Inder P. Mehra

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/8, 11/8 and 9/1.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This is in response to application dated: 9/21/2001. Claims 1-3 are pending.

#### ***Claim Objections***

2. Claims 1 and 3 are objected to because of the following informalities:

Claims 1 and 3 recite "NOC" in line 1. It is not explained as to its definition and function in specification. No where in the claims or specifications does it explain as to the specific functions of NOC. In claim1, it describes what NOC acronym stands for, such as network operations center. It is not enough. . What contents are being received from NOC?

Appropriate correction is required.

#### ***Information Disclosure Statement***

3. IDS dated: 11/8/02 has been sent twice including list of documents (6377981, ----- 5583561) , which is duplicate. Therefore, only one list is necessary and has been considered.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 recites following limitations, which do not have antecedent basis for this limitation in the claim:

- the public ---VLANs in line 20 (last line);

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- private VLAN. It should be preceded by “the”, recited because it is preceded by the same limitation.

Claim1 recites “the private VLAN --- and **comprises a receiving router, a receiver, a demodulator, and a gateway**”, in lines 14 and 15, whereas in lines 18-19, it recites “the outbound router and load balancer comprise a public VLAN ---. It is not clear from the drawings, as to what private and public VLANs are comprised of?

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hartsell et al** (US Application Publication 2003/0236745), hereinafter, Hartsell, in view of **Voit et al** (US Patent No. 6,829,250).

For claims 1 and 3, Hartsell discloses “**a scalable edge node** (information management features at the edge of a network (e.g., across single or multiple nodes, refer to paragraph 0012) that receives content from a NOC via a satellite link (an edge network may be wired, wireless, satellite-based , refer to paragraph 0249, and fig. 6) and distributes it via a last mile service provider, the edge node, (linking users, refer to paragraph 0050) comprising:

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- a variable number of media servers 310 (refer to fig. 6) connected to a load balancer 305, the load balancer capable of determining which of the servers connected to it is best able to meet a user's request for content, the number of media servers capable of being changed, while content is being received, to meet changes in demand for data (refer to paragraph 0011 and 0207);
- **a shared storage device connected to the media servers** (1040a in fig. 1B, and Network endpoint systems may include a wide variety of computing devices, including but not limited to, classic general purpose servers, specialized servers, network appliances, storage area networks or other storage medium;
- a private VLAN, (refer to paragraph 0277), that receives content from the NOC over the satellite link (paragraph 0249), and distributes it to the shared storage device 1040 in fig. 1A or 312 in fig. 6;
- **as recited by claim 2**, wherein the media servers 310 in fig. 6, the load balancer 307 in fig. 6, the shared storage device 1040 in fig. 1A or 312 in fig. 6, and the private VLAN, refer to paragraph 0277, are enclosed in a single equipment rack 300 in fig. 6.

Hartsell does not disclose “last mile service provider” and “a private VLAN “ explicitly in the following limitation, which is disclosed explicitly by Voit, as follows:

- “last mile service provider”, (15 and 21 in fig. 1;
- a private VLAN that receives content from the NOC over the satellite link, and distributes it to the shared storage device, refer to fig. 2 and col. 18 lines 45-62 and col. 26 lines 45-50;

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It would have been obvious to the person of ordinary skill in the art at the time the invention to use "VLAN ---shared device", as taught by Voit in the network architecture. The capability can be implemented by connecting VLAN at the edge node. The motivation for using this capability being that it provides more cost effective edge node and reduces latency in retrieving data from servers.

### ***Response to Arguments***

8. Applicant's arguments filed 9/1/2005 have been fully considered but they are not persuasive.

Applicant argues that "Nothing in the prior art describes Applicants' invention for altering the number of servers while an edge node is operating with all of the additional features discussed above.

In response, it is stated that Hartsell et al discloses allow varying levels of service to be differentially tailored or personalized for individual network users. Consideration of such quality assurance parameters may be used to advantageously provide end-to-end network systems, such as end-to-end content delivery infrastructures, with network -based mechanisms --- This ability may be used by service providers ("xSPs") to offer their users premium information management services for premium prices.

In light of explanation above, arguments by applicant are not persuasive.

### ***Conclusion***

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Inder Pal Mehra*  
Inder P Mehra  
Examiner  
Art Unit 2666  
11/22/05

*DM*  
DANIGTON  
PRIMARY EXAMINER